

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

PHILIP L. NEAL,)	
)	2: 14-cv-1093
Petitioner,)	Electronic Filing
)	
)	Judge David Stewart Cercone
vs.)	
)	
MICHAEL C. POTTEIGER, Chairman,)	
Pennsylvania Board of Probation and)	
Parole, and the PENNSYLVANIA BOARD)	
OF PROBATION AND PAROLE,)	
)	
Respondents.)	

MEMORANDUM ORDER

On August 8, 2014, this case was initiated by the filing of a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 (ECF No. 1) by Petitioner, Philip L. Neal. At the time of his filing, Neal was incarcerated at the State Correctional Institution at Pittsburgh. The case was referred to a United States Magistrate Judge for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and the Local Rules of Court for Magistrate Judges.

The Magistrate Judge filed a Report and Recommendation on February 4, 2015 (ECF No. 16) recommending that Respondents' Motion to Dismiss (ECF No. 10) be granted, that the petition for writ of habeas corpus be dismissed, and that a certificate of appealability be denied. On February 20, 2015, Petitioner filed Objections to the Report and Recommendation (ECF No. 17).

Neal objects to the Report and Recommendation on the grounds that he has "proffered strict proof in his pleadings that the Respondent has time and time again violated various protected civil rights of the Petitioner, including, but not limited to, the right to be free from retaliation." Obj. at ¶ 3. Such a claim is not within the scope of habeas corpus, but may be

cognizable as a civil rights action.¹ Accordingly, the Court finds that Neal's objections do not undermine the recommendation of the Magistrate Judge..

After *de novo* review of the pleadings and documents in the case, together with the Report and Recommendation, and the Objections thereto, the following order is entered:

AND NOW, this 26th day of February, 2015:

IT IS HEREBY ORDERED that the Motion to Dismiss (ECF No. 10) is **GRANTED** and that the Petition for Writ of Habeas Corpus is **DISMISSED**.

IT IS FURTHER ORDERED that a certificate of appealability is **DENIED**.

IT IS FURTHER ORDERED that the Report and Recommendation (ECF No. 10) is **ADOPTED** as the Opinion of the Court.

IT IS FURTHER ORDERED that the Clerk of Court mark this case **CLOSED**.

AND IT IS FURTHER ORDERED that pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, Petitioner has thirty (30) days to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure.



David Stewart Cercone
United States District Judge

cc: PHILIP L. NEAL
1131 Pennsylvania Avenue
Monaca, PA 15061
(via First Class Mail)

Chad L. Allensworth
Pennsylvania Board of Probation and Parole
(via CM/ECF electronic transmission)

¹ The Court is offering no opinion as to the merit, if any, of any civil rights claim Petitioner may seek to file.